

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 15-CR-4082 MCA

DAVON LYMON,

Defendant.

ADJUDICATION

GENERAL FINDING ON BENCH TRIAL

THIS MATTER is before the Court pursuant to Fed. Crim. P. Rule 23(c).

On November 17, 2015, a federal grand jury returned a four-count Indictment charging Defendant with various federal firearms offenses. On February 17, 2016 the Court granted Defendant's unopposed motion to sever Count 4 for separate trial. On June 15, 2016, a federal grand jury returned a Superseding Indictment which corrected a typographical error in the description of the firearm that is the subject of Count 4.

Subsequently, Defendant declared his desire to waive his right to trial by jury. Prior to the start of trial, the Court engaged in a colloquy with Defendant regarding the waiver of his Sixth Amendment right to a jury trial. The Court found that Defendant

knowingly and intelligently waived his right to a jury trial. With the consent of the Government, Count 4 was tried to the Court beginning on October 24, 2016. On October

25, 2016 the parties rested fully on their cases. Following closing arguments, the Court took this case under advisement.

THE CHARGE

Count 4 of the Superseding Indictment charges as follows:

*On or about October 21, 2015, in Bernalillo County, in the District of New Mexico, the defendant, **DAVON LYMON**, having been convicted of felony crimes punishable by imprisonment for a term exceeding one year:*

- (1) forgery,*
- (2) voluntary manslaughter,*
- (3) aggravated battery with a deadly weapon (with great bodily harm), and*
- (4) conspiracy to commit aggravated battery with a deadly weapon (with great bodily harm),*

knowingly possessed, in and affecting commerce, a firearm and ammunition:

- (1) a Taurus, model Millennium G2 PT140, .40 caliber pistol, serial number SHN04335, and*
- (2) several Perfecta brand .40 caliber cartridges.*

In violation of 18 U.S.C. §922(g)(1) and 924(a)(2).

THE ELEMENTS OF THE CHARGE

This charge placed upon the Government the burden of establishing beyond a reasonable doubt the following three elements:

- (1) Davon Lymon knowingly possessed a firearm or ammunition;

(2) Davon Lymon was convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year, before he possessed the firearm or ammunition; and

(3) before Davon Lymon possessed the firearm or ammunition, the firearm or ammunition had moved at some time from one state to another state or from a foreign country to the United States.

FINDING

Having considered the evidence admitted at trial, the arguments of counsel, the pertinent law, and otherwise being fully advised in the premises, the Court finds that the Government established beyond a reasonable doubt each element required to be proved in Count 4 of the Superseding Indictment. In addition, I find that the Government has established by a preponderance of the evidence that the offense charged in Count 4 occurred in Bernalillo County, in the State and District of New Mexico. Accordingly, I find that on or about October 21, 2015, in Bernalillo County, District of New Mexico, Defendant Davon Lymon, having previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, knowingly possessed, in and affecting commerce, a firearm and ammunition, in violation of 18 U.S.C. §922(g)(1) and 924(a)(2).

The Court finds beyond a reasonable doubt that Defendant Davon Lymon is **GUILTY** as charged in Count 4 of the Superseding Indictment.

SO FOUND, ADJUDGED AND ORDERED in open court in the presence of
Defendant Davon Lymon this 28th day of October, 2016.

A handwritten signature in black ink, appearing to read "M. Christina Armiño", is written over a horizontal line.

M. CHRISTINA ARMIÑO
Chief United States District Judge